

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

**FILED**

OCT 27 2006

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY \_\_\_\_\_ DEPUTY CLERK

ESTATE OF HATTIE L. PETTUS,  
EARL NATHAN PETTUS, JR., ET AL.,

Plaintiffs,

vs.

CIVIL ACTION NO. SA-06-CA-680-FB

OCWEN FEDERAL BANK, FSB,  
12650 Ingenuity Drive,  
Orlando, FL 32826-2703, and  
COWLES & THOMPSON, P.C.,  
901 Main Street, Suite 4000,  
Dallas, TX 75202,

Defendants.

**JUDGMENT**

The Court considered the Judgment to be entered in the above-styled and numbered cause. Pursuant to the Order Accepting the Report and Recommendation of the United States Magistrate Judge,

IT IS ORDERED, ADJUDGED and DECREED that the Report and Recommendation of the United States Magistrate Judge (docket no. 4) is ACCEPTED pursuant to 28 U.S.C. § 636(b)(1) such that:

- (A) The application of Janet Rhene Pettus Carruthers, Howard Eugene Pettus or any other proposed plaintiff other than Mr. Earl Pettus, Jr. to proceed in forma pauperis (docket no. 1) is DENIED because they did not sign the application or demonstrate sufficient evidence of indigency;
- (B) The motion of Janet Carruthers and Howard Pettus for appoint of counsel (docket no. 2) is DENIED as MOOT;

- (C) To the extent plaintiff's application to proceed in forma pauperis (docket no. 1) may be construed to include a request on behalf of the Estate of Hattie L. Pettus, the application is STRICKEN and DENIED because it has not been established that Earl Nathan Pettus, Jr. can sign the application on behalf of the estate or that the estate is indigent;
- (D) The motion for appointment of counsel (docket no. 2) to the extent it is construed to include the estate is DENIED as MOOT;
- (E) With respect to Earl Nathan Pettus, Jr., the only proper plaintiff in the case, his application for leave to proceed in forma pauperis (docket no. 1) is DENIED WITHOUT PREJUDICE because the proposed amended complaint does not state a nonfrivolous federal cause of action upon which relief may be granted and the parties are not diverse; and
- (F) Mr. Pettus' request for appointment of counsel (docket no. 2) is DENIED as MOOT.

To the extent pleaded, Mr. Pettus may seek to pursue non-time barred state causes of action in a state court of competent jurisdiction, but this Court does not have jurisdiction to decide state law causes of action when no federal cause of action is present. Mr. Pettus' case is closed and DISMISSED WITHOUT PREJUDICE.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that motions pending with the Court, if any, are dismissed as moot.

It is so ORDERED

SIGNED this 27 day of October, 2006.

  
FRED BIERY  
UNITED STATES DISTRICT JUDGE